

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TUYEN NGUYEN,

Plaintiff,

No. CIV S-04-0655 LKK KJM PS

vs.

DAVID MARTIN,

Defendants.

FINDINGS & RECOMMENDATIONS

By minute order filed May 23, 2005, this action was referred to the undersigned for pretrial case management and all hearing dates before the district judge were vacated. Under the status order filed June 9, 2004, the discovery and law and motion cut-offs had already passed at the time this action was referred to the undersigned. The matter was therefore set for status conference and the parties were directed to file status reports one week prior to the conference.

Plaintiff failed to appear at the status conference and failed to file a status report. Since the time plaintiff's counsel withdrew and plaintiff was substituted in pro per in May 2005, the file reflects no activity by plaintiff. It appears plaintiff has abandoned this litigation.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed for lack of prosecution, without prejudice. See Fed. R. Civ. P. 41(b).

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1 These findings and recommendations will be submitted to the United States
2 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
3 twenty days after being served with these findings and recommendations, any party may file
4 written objections with the court and serve a copy on all parties. Such a document should be
5 captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the
6 objections shall be served and filed within ten days after service of the objections. The parties
7 are advised that failure to file objections within the specified time may waive the right to appeal
8 the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

9 DATED: October 17, 2005.

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13 UNITED STATES MAGISTRATE JUDGE
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